

REMARKS

The Office Action dated May 12, 2009, has been reviewed and the comments of the U.S. Patent and Trademark Office have been considered. The following remarks are respectfully submitted to place the application in condition for allowance.

1. **Status of Claims**

A detailed listing of all claims that are, or were, in the application, is presented with an defined status identifier. Current claims examined include 1-35.

By this amendment, Applicants have amended claims 1, 9, 19, 21, 27, 33 and 34, and cancelled claims 7-8, 15-18, 26 and 29-30. Support for the claim amendments can be found in the original claims. No new matter has been added by the claim amendments. Applicant respectfully requests entry of the claims.

2. **Claim Rejections - 35 USC § 101**

The Office rejected claims 27-35 under 35 U.S.C. § 101, as being directed to a non-statutory subject matter.

Without conceding to the validity of the rejection and merely to advance prosecution of the application, Applicants have amended claim 27 to clarify that the method is tied to a computer. Amended claim 27 is directed to a computerized method to analyze electronic remittance notice information comprising receiving electronic remittance notice information from a third party payer in a computer database, the electronic remittance notice information includes claim adjudication information for a plurality of claims for each of a plurality of healthcare providers and for a plurality of procedures, determining, for a period of time and for the plurality of claims for each of the plurality of procedures, an average denial rate for each of the plurality of procedures for one of the plurality of healthcare providers and an average aggregate denial rate for each of the plurality of procedures for the plurality of healthcare providers, a weighting factor for each of the plurality of procedures for the one of the plurality of healthcare providers based on the financial information, a weighted average denial rate for the period of time for the one of the plurality of healthcare providers based on the weighting factor for each of the plurality of procedures for the one of the plurality of healthcare providers, a weighted average aggregate denial rate for the period of time for the plurality of

healthcare providers based on the weighting factor for each of the plurality of procedures for the one of the plurality of healthcare providers, comparing the weighted average denial rate and the weighted average aggregate denial rate, determining a percentage difference between the weighted average denial rate and the weighted average aggregate denial rate to generate a denial rate equalizer, and outputting reports of custom benchmark information generated by the method. Claims 28 and 31-35 that depend from claim 27 are directed to further embodiments of the claimed method. Claims 29-30 have been cancelled, so rejection of those claims is moot.

Therefore, the amended claims recite a process tied to a computer. Thus, claims 27, 28 and 31-35 are directed to statutory subject matter, and Applicant respectfully requests withdrawal of the rejection.

3. Claim Rejections – 35 USC § 103

The Office rejected claims 1, 5-9, 13-21 and 25-35 under 35 U.S.C. § 103(a) as being unpatentable over Tarter *et al.* (U.S. Patent no. 5,550,734).

Claim 1 has been amended to an electronic remittance notice analysis system, comprising: a database component operable to maintain electronic remittance notice information for a plurality of healthcare providers, the electronic remittance notice information includes claim adjudication information for a plurality of claims for each of the plurality of healthcare providers and for a plurality of procedures, the claim adjudication information includes information for each of the plurality of claims that includes healthcare provider identifier information, date information, procedure information, denial/allowance information, and financial information; and a processor component operable to access the database component and determine, for a period of time and for a plurality of claims, an average denial rate for each of the plurality of procedures for one of the plurality of healthcare providers, an average aggregate denial rate for each of the plurality of procedures for the plurality of healthcare providers, a weighting factor for each of the plurality of procedures for the one of the plurality of healthcare providers based on the financial information, the processor further operable to determine a weighted average denial rate for the period of time for the one of the plurality of healthcare providers based on the weighting factor for each of the plurality of procedures for the one of the plurality of healthcare providers, and a weighted average aggregate denial rate for the period of time for the plurality of healthcare providers based on the weighting factor for each of

the plurality of procedures for the one of the plurality of healthcare providers, the processor component is further operable to compare the weighted average denial rate and the weighted average aggregate denial rate, and the processor component is further operable to determine a percentage difference between the weighted average denial rate and the weighted average aggregate denial rate to generate a denial rate equalizer.

Similarly, claim 27 is amended to a computerized method to analyze electronic remittance notice information comprising receiving electronic remittance notice information from a third party payer in a computer database, the electronic remittance notice information includes claim adjudication information for a plurality of claims for each of a plurality of healthcare providers and for a plurality of procedures, determining, for a period of time and for the plurality of claims for each of the plurality of procedures, an average denial rate for each of the plurality of procedures for one of the plurality of healthcare providers and an average aggregate denial rate for each of the plurality of procedures for the plurality of healthcare providers, a weighting factor for each of the plurality of procedures for the one of the plurality of healthcare providers based on the financial information, a weighted average denial rate for the period of time for the one of the plurality of healthcare providers based on the weighting factor for each of the plurality of procedures for the one of the plurality of healthcare providers, a weighted average aggregate denial rate for the period of time for the plurality of healthcare providers based on the weighting factor for each of the plurality of procedures for the one of the plurality of healthcare providers, comparing the weighted average denial rate and the weighted average aggregate denial rate, determining a percentage difference between the weighted average denial rate and the weighted average aggregate denial rate to generate a denial rate equalizer, and outputting reports of custom benchmark information generated by the method.

In contrast, Tarter *et al.* describe a method and system for managing financing for healthcare service providers, by evaluating and purchasing accounts receivable, credit analysis of payors, securitizing and managing funds, and processing and reconciling claims and payments in a Computerized Healthcare Accounts Receivable Management System (CHARMS). See Col. 1, li. 65 through Col. 2, li. 10, Col. 10, li. 10-25, and Col. 18, li. 58-67. Of the major components of the system, none are assessing denial rates for healthcare providers health care claims or calculating benchmarks for accurate and fair comparison of healthcare provider's business with another healthcare provider as the claimed invention.

Contrary to the Office's assertion that Tarter *et al.* teach an average aggregate days sales outstanding for each of the plurality of procedures for the plurality of healthcare providers (Office Action at page 6), at best Tarter *et al.* describe collecting data from each provider within a pharmacy chain or buying group. Tarter *et al.* does not describe calculating data to compare payment lag for a medical product relative to the national average payment lag for the same medical product. See specification, page 31, II. 23-33.

Likewise, Tarter *et al.* does not suggest aggregating data by procedure for calculating benchmarks based on weighted average of denial rates or days sales outstanding, comparing the weighted averages that lead to optimizing a healthcare providers claim submission and collection practices weighted based on the particular healthcare provider's medical products billed. See specification at page 32 – page 41. In addition, Tarter *et al.* do not contemplate calculating an equalizer for denial rate or days sales outstanding that allows the healthcare provider to compare the efficiency of their claim denial rate or days sales outstanding compared to other healthcare providers with the unique characteristics of each healthcare provider removed from the calculation. Specification at page 41. In this regard, healthcare providers have the ability to compare their billing with others for the same blend or mix of products.

Accordingly, nothing in Tarter *et al.* suggests the calculation of custom benchmark data for comparison of healthcare provider information, in particular comparing the weighted average denial rate and the weighted average aggregate denial rate, determining a percentage difference between the weighted average denial rate and the weighted average aggregate denial rate to generate a denial rate equalizer, and outputting reports of custom benchmark information generated by the method of analyzing electronic remittance information. Without Tarter *et al.* teaching all of the elements of the amended claims, one of skill in the art would have no to motivation to produce the electronic remittance notice analysis system or computerized method for analyzing electronic remittance information of the claimed invention, nor a reasonable expectation of success of doing so. Consequently, the claimed invention would not have been obvious to one of skill in this art, and Applicants respectfully request withdrawal of the rejection of claims 1, 5-6, 9-10, 13-14, 19-21, 25, 27, 28, and 31-35 under 35 U.S.C. § 103(a).

In addition, the Office rejected claims 2-4, 10-12 and 22-24 under 35 U.S.C. § 103(a) as being unpatentable over Tarter *et al.* in view of Boyer *et al.* (US 6,208,973).

In light of the arguments and evidence detailed above that Tarter does not disclose the claimed electronic remittance notice analysis system or computerized method for analyzing electronic remittance information, Applicants submit that one of skill in the art would have no motivation to combine Boyer to include analysis of financial information. Boyer does not cure the deficiencies of Tarter, and the skilled artisan would have no reasonable expectation of success to generate the claimed electronic remittance notice analysis system or computerized method for analyzing electronic remittance information. Thus, Applicants respectfully request withdrawal of the rejection of claims 2-4, 10-12 and 22-24 under 35 U.S.C. § 103(a).

4. Conclusion

In view of the above remarks and amendments, the Applicants respectfully submit that each of the pending objections and rejections has been addressed and overcome, placing all of the claims of the present application in condition for allowance.

Applicants submit concurrently a request for a three-month extension of time under 37 C.F.R. § 1.136, and the accompanying payment by Credit Card in the amount of \$555.00 covering the fee set forth in 37 C.F.R. § 1.17(a)(3). In the event that any additional extension of time is necessary to prevent the abandonment of this patent application, then such extension of time is hereby petitioned. The U.S. Patent and Trademark Office is authorized to charge any additional fees that may be required in conjunction with this submission to Deposit Account Number 50-2228, under Order No. 026295.0102PTUS, from which the undersigned is authorized to draw.

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Respectfully submitted,

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